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AUG 19 2008

FCC Mail Room

Karen E. Greenan
Executive Director

Finger Lakes Library System

August 12, 2008

Marlene H. Dortch, Secretary
Federal Communication Commission
Office of the Secretary
445 12th Street. S.W.
Washington, D.C. 20554

RE: CC Docket No. 96-45 and CC Docket No. 02-6
Finger Lakes Library System
Form 471 Application Number 597101
BEN 125103
Frank J. Bocek
119 E. Green Street
Ithaca, NY 14850
607-273-4074 X25
(Fax) 607-272-7475
Email: fbocek@flls.org

We are requesting a waiver of the 28 day competitive bidding deadline for our current E-Rate application. Enclosed is a letter dated August 6, 2008 from USAC denying our appeal dated July 17, 2008. We have enclosed copies of all related correspondence.

We received a letter dated March 10, 2008 from a Mr. Son Luu, Associate Manager at USAC. I immediately called him to further understand this problem and asked how I could remedy the situation. He told me that "you could correct this by citing any earlier Form 470 that you had previously filed with USAC." Therefore, I answered his letter with a faxed response using the Form 470 #337040000589026 filed in December 2006. Mr. Luu called me subsequent to my fax and stated "this procedure was wrong and we would be denied and I needed to sign a statement attesting to this denial before I could file an appeal.

I asked Mr. Luu if there was any other method to allow for our Internet access when I initially responded to the March 10, 2008 letter. We simply made a very simple mistake and did not check the Internet Access box on our current Form 470. There should have been some method to correct this mistake. We have filed for both Telecommunication and Internet Access since the inception of E-Rate. We filed our Form 471 as though we had correctly filed the Form 470. I overlooked the December 13, 2007 letter receipt notification letter from USAC noting that the Internet Access category was "not posted."

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List ABCDE

I am not quite sure what else I should be asking for in an appeal. We are requesting the waiver of any rules that deny E-Rate funding for Internet Access. We are a New York State funded Library System experiencing current budget cutbacks. We have relied on E-Rate funding to supplement our State funding which allows us to keep our programs in operation.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank J. Bocek".

Frank J. Bocek
Business Manager

Enclosures



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2008-2009

August 06, 2008

Frank J. Bocek
Finger Lakes Library System
119 E. Green St.
Ithaca, NY 14850-4279

Re: Applicant Name: FINGER LAKES LIBRARY SYSTEM
Billed Entity Number: 125103
Form 471 Application Number: 597101
Funding Request Number(s): 1692931, 1692949, 1692965, 1692974, 1692988,
1692995, 1693008, 1693029, 1693045, 1693057,
1693070, 1693082, 1693093, 1693108, 1693120,
1693133, 1693153, 1693163, 1693172, 1693186,
1693198, 1693206, 1693213, 1693219, 1693229,
1693236, 1693248, 1693257, 1693262, 1693275,
1693284
Your Correspondence Dated: July 17, 2008

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2008 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1692931, 1692949, 1692965, 1692974, 1692988,
1692995, 1693008, 1693029, 1693045, 1693057,
1693070, 1693082, 1693093, 1693108, 1693120,
1693133, 1693153, 1693163, 1693172, 1693186,
1693198, 1693206, 1693213, 1693219, 1693229,
1693236, 1693248, 1693257, 1693262, 1693275,
1693284

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that Finger Lakes Library System is in violation of the Schools and Libraries support mechanism competitive bidding rules. According to USAC records, the services being requested on Block 5 (Items 11) of the Form 471 application are Internet Access services. The Funding Year 2008 Form 470 Application Number 834020000634634 did not post for this service category, which is a violation of the 28 days competitive bidding requirements of this support mechanism. Program Integrity Assurance (PIA) contacted the library and made them aware of the program violation. Finger Lakes Library System was requested to verify if the referenced Form 470 was the establishing Form 470 for these services. Additionally, you were given an opportunity to cite an alternate Form 470 in order to cure the program's violation. In an email dated March 10, 2008, Finger Lakes Library System stated that the Form 470 establishing the bidding requirement for the requested services is Funding Year 2007 Form 470 application number 337040000589026. Although Internet Access was posted on this Form 470, it was not posted for the current Funding Year 2008. The rules of this program require that services delivered on a tariff or month-to-month basis be posted for 28-Days to a new Form 470 each funding year. Since the referenced Form 470 was not filed in the same Funding Year as the Form 471, the request is in violation of the competitive bidding requirements relating to tariff and month-to-month services. However, PIA informed you that you will be denied for not posting for Internet Access based on the original Form 470 application number 834020000634634. On appeal, you have failed to provide any evidence that USAC erred in its initial determination or that Finger Lakes Library System is in compliance with the Schools and Libraries support mechanism 28 days competitive bidding requirements. Consequently, your appeal is denied.
- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504(a) (c), 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the website became operational) for products and/or services provided through June 30, 1999. See 47 C.F.R. sec. 54.511(c) and (d).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you

are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. *Further information and options* for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

COPY

July 17, 2008

USAC
Schools & Libraries Division
100 S. Jefferson Road
PO Box 902
Whippany, NJ 07981

Letter of Appeal, SLD
Frank J. Bocek
Finger Lakes Library System
119 E. Green Street
Voice: 607-273-4074 x25
Fax: 607-273-3618
Email: fbocek@flls.org
Ben 125103
Form 471 App. No. 597101

We are appealing USAC's decision denying \$25,092 of funding requests per your recent Funding Commitment Decision Letter, for funding year 2008, dated June 17, 2008. (Copy enclosed)

The following FRNS were claimed and denied:

1692931	1693045	1693153	1693229
1692949	1693057	1693163	1693236
1692965	1693070	1693172	1693248
1692974	1693082	1693186	1693257
1692988	1693093	1693198	1693262
1692995	1693108	1693206	1693275
1693008	1693120	1693213	1693284
1693029	1693133	1693219	

The FCD explanation states: *the 470 cited did not include service of this type.* We simply overlooked checking the Internet Access category in Block 2 of our Form 470, application #834020000634634. We have applied for funding in this category since E-RATE funding began. We made a simple mistake, but we applied for funding on our Form 471 application #597101 as though we had activated the Internet Access category on the above mentioned Form 470.

Our current situation as far as Internet Service Providers is limited to what we currently have (wireless Point to Point with Clarity Connect with backup DSL). Our Forms 470 and 471 reflect the continuation of the Clarity Service with a possible switch to Time Warner Road Runner service. The potential switch to Road Runner will only be possible if they are successful in obtaining the signed easements from the City of Ithaca, Tompkins County and the developer whose land borders us on two sides. The easement process has been ongoing for the last four years. The only reason we would entertain switching from our current provider, Clarity Connect, is that Road Runner is the current ISP for 31 out of our 33 member libraries. Our rationale is that if all of our libraries are using Road Runner to access our services, it would be beneficial for the Finger Lakes Library System to also utilize Road Runner, thereby placing all of the interested parties on the same network. This has the main advantage of reducing the number of outside networks that we and our member libraries would have to rely on. ISP upstream providers would have less of an impact on our essential services.

The regrettable mistake of placing the Internet Services in Block 2 on our 470 application was in no way intentional. It is unfortunate that the online application for the 470 even allows for the entry of invalid services in Block 2. Looking back over our participation since the inception of the E-Rate funding, we have always entered our current ISP's in the Block 3 area. We also have not switched ISP's since the ones we use fit our unique situation and goal of being on one network. This is something no other providers can or will commit to. In fact, whenever we are contacted by a vendor they back out once the scope of the project is laid out since our member libraries are very rural in nature and for many, Road Runner is the only ISP available to them. The other reason vendors balk is the low price we are currently paying for the Road Runner Service.

Additionally, Road Runner is a New York State Contract Vendor which means we can take advantage of that pricing which meets the stringent contract requirements of New York State.

We are a New York Stated Library System that relies on every bit of funding possible to service a five county region in Upstate New York. The possible loss of over \$25,000 in funding would be a severe economic hardship.

Please contact me if you require any further information.

Thank you,



Frank J. Bocek
Business Manager

Enclosure

Finger Lakes Library System
119 E. Green Street
Ithaca, NY 14850

amit denial
letter + then
appeal
3/12/08

FAX COVER SHEET

Voice: 607-273-4074

Fax: 607-273-3618

Date: 3/12/08

To: Son hua 1-973-599-6522

From: FRANK BOCEK

Subject: Denial of FRN's

Message: I am returning this signed
denial agreement. we will be appealing
this decision once we receive an official
denial. Thank you!

Frank J Bocek

 Please Reply

 Confidential

2 Number of Pages
(including this sheet)



Schools and Libraries Division

Mar 12, 2008

FRANK J BOCEK
FINGER LAKES LIBRARY SYSTEM
Telephone:
Application Number

(607) 2734074
597101

Response Due Date: 3/27/2008

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2008 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2008 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

We have completed our review and determined that FRN(s) 1692931, 1692949, 1692965, 1692974, 1692988, 1692995, 1693008, 1693029, 1693045, 1693057, 1693070, 1693082, 1693093, 1693108, 1693120, 1693133, 1693153, 1693163, 1693172, 1693186, 1693198, 1693206, 1693213, 1693219, 1693229, 1693236, 1693248, 1693257, 1693262, 1693275, and 1693284 will be denied because the Form 470 834020000634634 that you provided was not posted for internet access. For additional information on the competitive bidding process, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step03/>.

If the entire FRN should not be denied and you have alternative information, please provide the supporting documentation.

Please confirm if you agree with the denial reason. ☒ Yes or ☐ No

If you do not respond within 15 days, the FRN(s) will be denied

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to do so may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Son Luu
Associate Manager
Schools and Libraries Division
Program Integrity Assurance
Phone: 973-581-7537

FAX: 973-599-6522

email address sluu@sl.universalservice.org



80 South Jefferson Road
Whippany, New Jersey 07981
Fax: 973-599-6522

Universal Service Administrative Company
Schools & Libraries

FAX TRANSMISSION COVER SHEET

To: FRANK J BOCEK
Fax: 1-607-2733618
Subject: ERate App# 597101
From: PIATeam1
Date: March 12, 2008
Time: 2:19:31 PM

YOU SHOULD RECEIVE 3 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL THE CONTACT SPECIFIED BELOW.

Please see the attached.

973-599-6522

Privilege and Confidentiality Notice

The information in this telecopy is intended for the named recipients only. It may contain information that is privileged, confidential or otherwise protected from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this telecopied material is strictly prohibited. If you have received the telecopy in error, please notify us by telephone immediately and mail the original to us at the above address. Thank you.

Son Luu,

In response to your 3/10/08 letter to the Finger Lakes Library System we are supplying the following information:

- I. Please use 470# 337040000589026 for the 31 mentioned FRN's.
- II. In regard to FRN's 1693330 and 1693352 there are a total of 14 lines...10 landlines and 4 cell phone lines.

Please let me know if you need any other information. Thank You!

Frank J Bocek

FLS response to VAC FAX ^{3/10/08} returned on 3/10/08



Schools and Libraries Division

Mar 10, 2008

FRANK J BOCEK
FINGER LAKES LIBRARY SYSTEM
Telephone:
Application Number

(607) 2734074
597101

Response Due Date: 3/25/2008

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2008 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2008 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

I. On your original Form 471 you indicated that Form 470 # 834020000634634 is the establishing Form 470 for the service requested in FRN 1692931, 1692949, 1692965, 1692974, 1692988, 1692995, 1693008, 1693029, 1693045, 1693057, 1693070, 1693082, 1693093, 1693108, 1693120, 1693133, 1693153, 1693163, 1693172, 1693186, 1693198, 1693206, 1693213, 1693219, 1693229, 1693236, 1693248, 1693257, 1693262, 1693275, and 1693284. This FRN is for Internet Access, but the referenced Form 470 did not post for this service category, which is a violation of the competitive bidding requirements of this program.

Please verify if the referenced Form 470 is the establishing Form 470 for this service. If the referenced Form 470 is NOT the establishing Form 470 please provide the 15-digit Form 470 number that did establish the bidding for this service. The establishing Form 470 is the specific Form 470, which was posted for that particular service for 28 days, and pursuant to which a contract was signed or an agreement was entered into. For a request in the Basic Maintenance service category that was filed prior to May 1, 2005, it is possible that the establishing 470 was filed under an Internal Connections service category.

The establishing Form 470 could have been posted by the State, if the requested services are being purchased off of a State Master Contract. Please indicate if this so.

II. Based on your documentation FRN 1693330 and 1693352 is a request for local, long distance or cellular service. The documentation does not indicate the number of lines for which funding is being requested. Please indicate the number of lines for which you are requesting service for this request.

of lines

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to do so may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Son Luu

Associate Manager
Schools and Libraries Division
Program Integrity Assurance
Phone: 973-581-7537

FAX: 973-599-6522

email address sluu@sl.universalservice.org



80 South Jefferson Road
Whippany, New Jersey 07981
Fax: 973-599-6522

Universal Service Administrative Company
Schools & Libraries

FAX TRANSMISSION COVER SHEET

To: FRANK J BOCEK
Fax: 1-607-2733618
Subject: ERate App# 597101
From: PIATeam1
Date: March 10, 2008
Time: 10:57:28 AM

YOU SHOULD RECEIVE 3 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL THE CONTACT SPECIFIED BELOW.

Please see the attached.

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Frank J. Bocek
Finger Lakes Library System
119 E. Green St.
Ithaca, NY 14850-4279

Billed Entity Number: 125103
Form 471 Application Number: 597101
Form 486 Application Number: